

Introduced by Senator Alpert

February 23, 2001

An act to add and repeal Section 1157.8 of the Evidence Code, and to add and repeal Part 5.5 (commencing with Section 128850) to Division 107 of the Health and Safety Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1169, as introduced, Alpert. Patient safety data reporting and analysis.

Under existing law, the Office of Statewide Health Planning and Development is vested with responsibilities in the areas of health planning and data reporting.

This bill would require the office to contract with an organization recognized as operating a quality-oriented data base program to create a central reporting data base and to receive and analyze information relating to medical events involving the occurrence or near occurrence of compromises of patient safety or of the quality of health care delivery by any health care professional, facility, or organization licensed by the state.

This bill would provide for the making of voluntary reports to this contractor, and for the analysis of reports by the contractor to attempt to determine safeguards to prevent future occurrences of the conduct reported. It would provide for summary quarterly reports to be made by the contractor to the office and the State Department of Health Services.

The bill would contain various safeguards for the identity of reporters and the subjects of reports.

The bill would provide for the repeal of its provisions on January 1, 2006.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Patient Safety Act.

3 SEC. 2. The Legislature finds and declares all of the
4 following:

5 (a) It is important to identify deficiencies in, and opportunities
6 for, improving health care patient safety systems, for the purpose
7 of identifying and encouraging the adoption of structural
8 safeguards.

9 (b) The establishment of a voluntary, confidential, anonymous
10 nonregulatory system to accept reports of these deficiencies and
11 opportunities will maximize the number of reports and best
12 encourage a systems approach to error reduction.

13 (c) Human factors research strongly supports the creation of
14 such a forum for analysis, education, and the improvement of
15 health care quality and safety. The data collected under such a
16 reporting system can be used to evaluate medical equipment and
17 procedures and aid in the development and improvement of
18 medical equipment, procedures, and systems to strengthen the
19 foundation of health care patient safety.

20 (d) Effective reduction of unintended adverse patient outcomes
21 in any health care organization or setting requires a reporting
22 system in which patients, their families, and health care providers
23 can report detailed descriptions of medical events related to safety
24 or quality assurance without fear of regulatory or punitive
25 consequences.

26 (e) To promote the confidence that the system will be used to
27 improve patient safety systems, rather than to punish or regulate,
28 the collection and analysis should be carried out by a single entity
29 which does not have existing regulatory or oversight
30 responsibilities.

31 (f) Although numerous administrative, civil, and criminal
32 mechanisms exist for disciplining health care professionals and
33 facilities who fail to meet the standard of care, these systems, by
34 themselves, have failed to create optimal patient safety. Recent
35 research into the issue indicates that these punitive systems will not

1 suffice in improving patient safety and that voluntary reporting
2 systems acknowledge the inevitability of human error and
3 understand that errors occur because individual health care
4 professionals cannot consistently outperform unsafe or potentially
5 unsafe systems operating within health care delivery. Under these
6 voluntary systems of reporting, medical event analysis is system
7 or process oriented rather than focused on individual blame.

8 (g) This collecting entity will have responsibility for managing
9 reports related to the data collected under this reporting system,
10 and will create data base structures for the purpose of providing
11 patient safety hazard alerts, distributing safety information,
12 without identifying specific facilities or individuals, and
13 effectively communicating aggregate information in the form of
14 quarterly reports to the State Department of Health Services, the
15 Office of Statewide Health Planning and Development, and the
16 public.

17 (h) Data reported and collected pursuant to this reporting
18 system will be provided with protection from subpoena, discovery,
19 or use for other purposes, such as civil litigation, arbitration, or
20 other administrative actions.

21 (i) To ensure continued attention to the effectiveness of this
22 system, this reporting system will be eliminated on January 1,
23 2006, unless extended by the Legislature.

24 SEC. 3. Section 1157.8 is added to the Evidence Code, to
25 read:

26 1157.8. (a) The identity of a medical event reporter, the
27 reports made, and the data regarding medical events reported and
28 collected, under Part 5.5 (commencing with Section 128850) of
29 Division 107 of the Health and Safety Code, shall not be subject
30 to subpoena, nor shall it be disclosed or compelled to be produced
31 in any civil, administrative, or other noncriminal proceeding, or be
32 deemed admissible as evidence in any civil, administrative, or
33 other tribunal or court for any reason, with the exception of
34 information upon which the report is based, and if and only if that
35 information exists independent of the reporting process mandated
36 by that part and is otherwise discoverable under any other
37 provision of law. No person involved in the investigation,
38 collection, review, development, or submission of the data under
39 Part 5.5 (commencing with Section 128850) of Division 107 of the



1 Health and Safety Code shall be subject to subpoena or compelled
2 or allowed to testify regarding the data.

3 (b) This section shall remain in effect only until January 1,
4 2006, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, 2006, deletes or extends that date.

6 SEC. 4. Part 5.5 (commencing with Section 128850) is added
7 to Division 107 of the Health and Safety Code, to read:

8
9 PART 5.5. PATIENT SAFETY DATA REPORTING AND
10 ANALYSIS REQUIREMENTS
11

12 128850. The Office of Statewide Health Planning and
13 Development shall contract with an organization recognized as
14 operating a quality-oriented data base program, such as the
15 Institute of Medical Quality, to create a central reporting data base
16 and to receive and analyze information relating to medical events
17 involving the occurrence or near occurrence of compromises of
18 patient safety or of the quality of health care delivery by any health
19 care professional, facility, or organization licensed by the state.

20 128851. For purposes of this part:

21 (a) “Medical events involving the occurrence or near
22 occurrence of compromises of patient safety or of the quality of
23 health care delivery by any health care professional, facility, or
24 organization licensed by the state” means any occurrence that the
25 reporter believes did result, or could have resulted, in a
26 compromise of patient safety or of the quality of health care
27 delivery.

28 (b) “Reporter” means any health care facility, health care
29 professional, patient, or person who is involved in any manner in
30 a medical event described in subdivision (a) and who reports the
31 event to the contractor.

32 128852. The contractor provided for pursuant to Section
33 128850 shall develop a medical event reporting form for voluntary
34 submission to the contractor. The report form shall include, but not
35 be limited to, the date of the event and a summary of the event. The
36 report form shall contain a tear-off portion that contains the
37 information that identifies the person or entity submitting the
38 report.

39 128853. Within 72 hours of receipt of a report, the contractor
40 shall review the report, contact the medical event reporter, if

1 necessary, to obtain additional information about the event for
2 purposes of evaluating potential systems safeguards that would
3 reduce the likelihood of the medical event reoccurring, detach that
4 portion of the report which contains identifying information and
5 return it to the reporting individual or entity by United States mail.
6 The contractor shall delete any identifying information as to the
7 person or entity submitting the report, or the health care
8 professional or institution that is the subject of the report.

9 128854. On or before January 1, 2003, and quarterly
10 thereafter, the contractor shall submit to the office and the State
11 Department of Health Services and prepare for distribution to the
12 public, a summary report regarding the information received and
13 analyzed pursuant to the central reporting system, without any
14 identifying information concerning the reporters or the subjects of
15 the reports. This report shall include an analysis and interpretation
16 of the data received by the contractor and recommendations for
17 improvement of patient safety and quality of care related thereto.

18 128855. A reporter who reports pursuant to this chapter shall
19 not be civilly or criminally liable for any report authorized by this
20 part.

21 128856. A supervisor or administrator for any health care
22 professional, facility, or organization shall not impede or inhibit
23 the making of a report authorized by this part. A person making a
24 report pursuant to this part shall not be subject to any sanction for
25 making the report.

26 128857. It is the intent of the Legislature that the
27 administrative cost incurred by the office in administering this
28 part, including the cost incurred by the organization contracting
29 with the office, be funded pursuant to the Budget Act.

30 128858. This part shall remain in effect only until January 1,
31 2006, and as of that date is repealed, unless a later enacted statute,
32 that is enacted before January 1, 2006, deletes or extends that date.

